Military Pre-Conference
Association for Financial Counseling and Planning Education

Scottsdale Plaza Resort

Scottsdale AZ

November 18th, 2009

Topics

- Perspective on the DoD Regulation
  - Review what's covered and why more wasn't covered
  - Status of enforcement and 2010 state legislative initiative
- Other lending concerns
  - "Morphed" products
  - Military-only finance companies
  - Internet lending
- Congressional/Federal Agency interests
  - Additional credit card protections
  - Limits on overdraft protection programs
  - Small dollar loan programs
- Request for your assistance

What's Covered by the Regulation

- Payday loans, defined as
  - (1) closed-end credit
  - (2) 91 days or fewer
  - (3) does not exceed $2,000, and
  - (4) secured by check or access to bank account
- Vehicle title loans, defined as
  - (1) closed-end credit
  - (2) 181 days or fewer, and
  - (3) secured by a vehicle title
- Tax refund anticipation loans, defined as
  - (1) closed-end credit, and
  - (2) secured by a tax return

Why wasn’t more covered

- Preserve good credit opportunities for Service members and their families
  - Statute featured requirements and penalties that potentially made lending to military members less attractive
  - Industry and Federal/state regulators advocated limiting scope
  - There are both good and bad terms on open-end credit and installment loans
  - Focused on loans with consistently high fees and charges
- Decided to gauge implementation and impact before proceeding further
  - Assess impact on military consumers and reaction of lenders
  - Work with states on enforcement

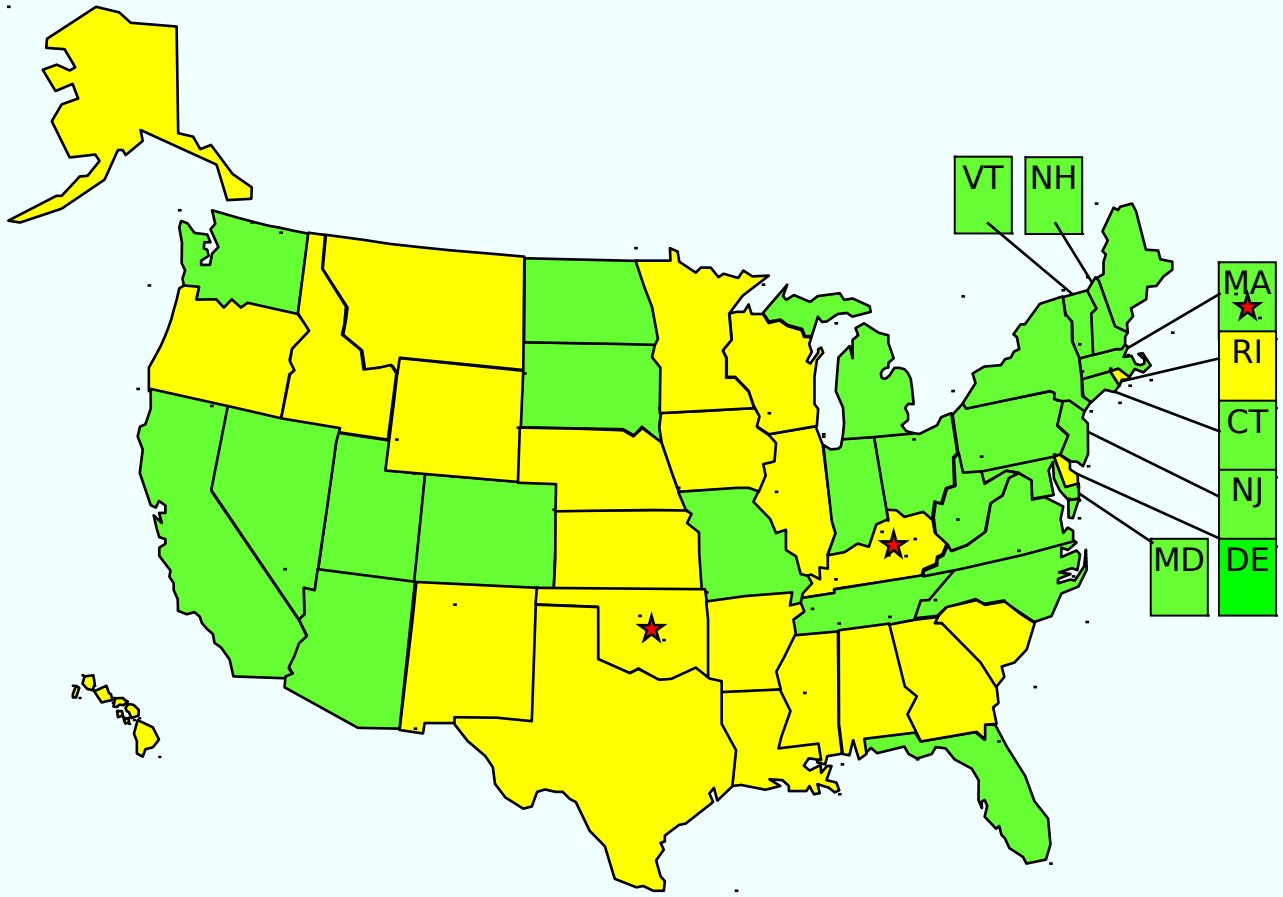
Status of State Enforcement

- Those states with examination responsibilities use the regulation in their reviews
- 16 of the 39 states authorizing payday loans do not have adequate enforcement authority
  - AK, AR[1], HI, IL, KS, LA, MN, MS, NE, NM, OK, OR[2], RI, TX, WI and WY
- 10 of 18 states with specific statute authorizing vehicle title loans do not have adequate enforcement authority
  - GA, ID, IA, IL, KY, MN, MS, NM, OR and SC

[1] AR has an interest rate cap of 17 percent APR on these loans

[2] OR has an interest rate cap of 36 percent APR (excluding an administrative fee) on these loans

Status of State Enforcement



States with signed MOUs

States enforce rule or prohibit payday and vehicle title loans.

States use regulation in examinations.

States do not recognize the regulation..

2010 Legislative Initiative

- Advocate change to statute to allow enforcement of violations of:
  - “any other law in the course of dealing as a licensee”
  - “Federal statute, rule or regulation pertaining to consumer credit”
  - “section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (PL 109-364) or any regulation promulgated under this act”
- NCOIL Resolution and 2009 state legislative provide sources for state legislators
  - DoD Regional Liaisons will educate legislators as part of 10 Key Issues

“Morphed” Products

- No general movement to avoid the regulation
- Surmise impacted lenders followed the market
  - Some lenders who provide service to the general public morphed when state laws changed, affecting access to their primary market
    - Illinois and Virginia payday lenders are examples
    - South Carolina vehicle title lenders are an exception
  - Some lenders who provide service exclusively to the military may have morphed to retain their primary market
    - Military Financial remains our only known example

Military Finance Companies

- Offer loans exclusively to members of the military
- Mixed group
  - Open end credit, installment loans, and in-store finance
  - Storefront and internet
  - Primarily regulated by state governments
- Concern:
  - High cost to military consumer with questionable underwriting standards
  - Affinity marketing
  - Only licensed in home state
- Will work with regulators on oversight

Internet Lending

- Websites don’t always correspond to the lender
  - Some advertise a list of sites
  - Some take the consumer’s personal information and forward it to unnamed lenders
  - Some represent a lender or a subsidiary of a lender
- Jurisdictional issues
  - Many lenders are off-shore
  - A few state Attorneys General have taken action to protect consumers within their states
- Illusive group to oversee and enforce restrictions
  - Continue to work with regulators on answers

Congressional Interest – Credit

- Members looking to do more for Service members and veterans
- Options:
  - Did not show “material effect of military service”
  - Were virtually impossible to administer by creditors
- Examples:
  - Prevent creditors from posting adverse information for Service members “assigned away from usual duty station” and veterans with a disability received within two years of discharge
    - Could degrade the accuracy of the credit report for all Service members and disabled veterans
  - Allow Service members to “freeze” credit cards so no payments would be required or additional transactions could occur during a deployment
    - Uncertain what was being solved by this effort
    - Appeared to have several potential unintended consequence

Congressional Interest – Overdraft Protection

- Question: Is there a need for legislation to protect Service members and their families concerning overdraft protection offered through military banks and credit unions?
- Answer:
  - Comptroller review shows no systemic problems
  - Regulatory structure and long term relationships can resolve issues without additional legislation
  - Banks and credit unions are making modifications
    - Overseas bank contract will use line of credit for overdraft protection
    - Stateside financial institutions are individually making improvements

Recent Press

- "Courtesy overdraft fees hit credit union customers, too"
  - USA Today, August 4, 2009, by Kathy Chu
  - "Langley Federal Credit Union — which serves Langley Air Force Base and the surrounding community — says it **lets customers overdraw with checks but not debit cards**. It also **encourages customers to set up a less expensive line of credit to cover overdrafts**, says Brett Noll, a senior vice president at Langley."
  - "The credit union, which serves Wright-Patterson Air Force Base, started asking new customers this year how they want their overdrafts handled. Consumers **can check a box to apply for a line of credit, to have money transferred from savings or to automatically have the bank pay their checks for a fee**. 'We want consumers to know exactly how much it would cost if they wrote a check they didn't have money for,' says Doug Fecher, CEO of the credit union. Wright-Patt **doesn't let consumers overdraw with debit cards**."

FDIC Interest in Small Dollar Loans

- Army Emergency Relief – Commander Referral Loan
  - Company commander/First Sgt approval up to $1,000
  - Interest free with up to 12 month repayment by allotment (one at a time)
  - $19.6 million in 2008 (30% of total emergency relief)
- Navy Marine Corps Relief Society – Quick Asset Loan
  - No budget or counseling for approval up to $300
  - Interest free with up to 10 months repayment – two per year
  - $6.9 million in 2008 (37 % of total emergency relief) – 23,836 Sailors and Marines
- Air Force Aid Society – Falcon Loan
  - No budget or counseling for approval up to $500
  - Interest free with up to 10 months repayment – two per year
  - 10,000 Airman provided loans in 2008 (total emergency relief – 45,000 Airman for $13.7 million)
  - Default rate on Falcon Loans = less than 1%
- All Societies provide same-day service and require loans to be for bonafide needs
  - Rent, utilities, repair of primary car, emergency travel, etc.

Bank and Credit Union Small $ Loans

- 2008 survey through institution associations
- Defense credit unions
  - 47 credit unions on 135 military installations
  - Average maximum amount $577
  - Interest rates between 7 and 24 percent APR – average APR of 17% with no additional fees
  - 3 programs featured savings components and 7 required financial counseling
- NAFCU members
  - 92 percent of 156 members surveyed reported loans of $500 or less
  - Approval in 24 hours or less
  - 75% have payment periods beyond one pay period
- Military banks
  - Streamlined loans ranging from $100 - $2,000
  - 12% - 18% APR with minimal fees

Important Role of Education

- Broad protections will more likely come with unintended consequences
- Credit producers will continue to “innovate”
- Regulations only limit the transaction and the options – the consumer still needs to know what makes for a better solution/alternative
- You can help shape the marketplace by educating the military consumer to choose better products

Where you can help

- We need the benefit of what you hear day-to-day listening to the military consumer
  - What appear to be problems of such prevalence that we need to find solution?
  - What innovations are occurring in the marketplace that may cause systemic problems?
  - Are current limitations working?
- We wanted to present the result of a quick survey through www.surveymonkey.com, but we received no input
- We continue to receive requests from Congress and will continue to have a need for your valuable input.

Questions?

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